

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NOVA CONSULTANTS, INC.,

Plaintiff,

v.

UGE INTERNATIONAL, LTD.,
et al.,

Defendant.

Case No. 17-11160
Hon. Terrence G. Berg

**ORDER SETTING ASIDE DISMISSAL AS TO
DEFENDANTS UGE INTERNATIONAL, LTD., AND UGE
USA, INC. AND RE-OPENING THE MATTER**

On September 20, 2018, this Court granted Plaintiff's motion for judgment and entered judgment in the amount of \$25,000.00 against defaulted defendant Urban Green Energy, Inc. *See Order, Dkt.33.* In that same order, this Court dismissed the remaining two defendants, UGE International, Ltd., and UGE USA, Inc. with prejudice, but retained jurisdiction to enforce the terms of a settlement agreement between Plaintiff and those two defendants. *Id.* at PageID.292.

On October 17, 2018, Plaintiff moved the Court to set aside the dismissal of UGE International, Ltd., and UGE USA, Inc., and to enter default judgment against each defendant. Plaintiff claims in the motion that neither defendant has filed an answer in these

proceedings, and both should be defaulted. Plaintiff claimed during the February 20, 2019 hearing that the only responsive pleading ever filed by these defendants was a Motion to Dismiss filed in May 2017, and that this motion was later withdrawn by defendants in September 2017. *See* Motion to Dismiss, Dkt. 10; Stipulated Order, Dkt. 21; Stipulated Order, Dkt. 22. Since that time, neither UGE International, Ltd. nor UGE USA, Inc. have filed any documents of any kind with the Court. Plaintiff also pointed out that on April 5, 2018 this Court ordered UGE International, Ltd. and UGE USA, Inc. to file answers and affirmative defenses within 21 days or be defaulted, but that neither defendant has ever responded to the Court's order. *See* Order to Reinstate Claims, Dkt. 30.

This Court held a hearing on February 20, 2019 at which only Plaintiff appeared. At this hearing, Plaintiff explained that UGE International, Ltd. and UGE USA, Inc. had failed to perform according to the settlement agreement, causing Plaintiff to incur damages in the amount of \$97,590.16 in order to mitigate the costs of the defendants' non-performance. Plaintiff now asks the Court to reinstate UGE International, Ltd. and UGE USA, Inc. as defendants, and enter default judgment against them in the amount of \$97,590.16.

However, if Plaintiff wishes the Court to enter default judgment against defendants, Plaintiff must first enter a request for Clerk's

entry of default, pursuant to Fed. R. Civ. P. 55(a) and Local Rule 55.1. Until the Clerk of the Court enters default, this Court cannot enter a default judgment against any defendant.

For these reasons, Plaintiff's motion to set aside dismissal as to UGE International, Ltd., and UGE USA, Inc. is **GRANTED**. Plaintiff's motion to enter default judgment against each defendant is **DENIED** as premature.

ORDER

Accordingly, it is **ORDERED** that the dismissal of defendants UGE International, Ltd. and UGE USA, Inc. is **SET ASIDE**, and those parties are re-instated in this action.

Additionally, the Clerk of the Court is directed to re-open this case.

Plaintiff is directed to file Certificate of Service demonstrating that defendants UGE International, Ltd. and UGE USA, Inc. have been served with this Order and a copy of Plaintiff's Motion (Dkt. 34) on or before March 6, 2019.

The previous judgment of \$25,000.00 against defendant Urban Green Energy, Inc. remains valid and enforceable.

SO ORDERED.

Dated:
February 26, 2019

s/Terrence G. Berg
TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

